IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

Crl.MC.No. 1599 of 2007()

CRIME NO.31/07 OF THE THANNITHODE POLICE STATION.

PETITIONER: ACCUSED.

ANIYANKUNJU, THOOKKINAAL VEETIL,
VILLAGE THANNITHODE, THEKKUTHODU MURI,
KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.BABU S. NAIR
SRI.ABRAHAM SAMSON
SMT.LOVELY SAMSON

RESPONDENTS: STATE.

THE STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
THANNITHODU POLICE STATION, PATHANAMTHITTA DIST.,
THORUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, KOCHI - 31.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1599 OF 2007

Dated this the 30th day of May, 2007

ORDER

The petitioner faces the allegations, inter alia, under Sec.3(1)(x) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. According to the petitioner, he is absolutely innocent. He faces the unenviable prospect of arrest by the police as accused in the said crime. The petitioner is unable to secure directions under Sec.438 of the Cr.P.C. in the light of the specific bar under Sec.18 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. The petitioner apprehends that if he surrenders before the learned Magistrate, the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. He apprehends that the learned Magistrate notwithstanding the precedents laid down by this Court may choose not to consider his

application on merits as the offence is triable exclusively by a Court of Sessions/Special Court. He further apprehends that his application for bail may not be disposed of on the date of surrender itself. I find the apprehension to be totally unjustified. This Court has time and again repeated that the mere fact that the offence under Sec.3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act is triable by a Court of Sessions/Special Court does not justify the abdication of the jurisdiction by the learned Magistrate. The decisions in **Ali v. State of Kerala (**2000 (2) K.L.T. 280); **Shanu v. State of Kerala** (2000 (3) K.L.T. 452); **Krishnakumar v. State of Kerala** (2005 (1) K.L.D. (Cri) 42 and **P.P. Kader v. State of Kerala** (2005 (1) K.L.D. (Cri) 250) have laid down this proposition beyond the pale of controversy. I do not also find merit in the submission that the petitioner's application will not be considered expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339). I do not think it necessary to issue any specific or special directions

in favour of the petitioner.

2. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself in the light of the precedents referred above.

3. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge